

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

LARRY F. LEE, a single man,)	
)	Case Number:
Plaintiff,)	
)	
v.)	COMPLAINT
)	
MANN BRACKEN, LLC, a Georgia)	
Limited Liability Company,)	
UNKNOWN DEFENDANTS, including)	
an UNKNOWN COLLECTION AGENCY,)	
and ESKANOS & ADLER, P.C, a)	
California Professional)	
Corporation,)	
)	
Defendants.)	

I. INTRODUCTION

1. This is an action for statutory damages brought by an individual consumer for Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.* ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices, under Wash. Rev. Code §§ 19.86, *et seq.* (2009), the Washington Consumer Protection Act for unlawful or deceptive acts or practices (CPA) and Wash. Rev. Code §§ 19.16, *et seq.* (2009), the Washington Collection Agency Act (WCAA). The last two are brought under the court's supplemental jurisdiction.

COMPLAINT - 1/9

JAMES STURDEVANT
ATTORNEY AT LAW
BELLINGHAM TOWERS #310
119 N. COMMERCIAL
BELLINGHAM, WASHINGTON 98225
(360) 671-2990
E-MAIL: sturde@openaccess.org

1
2 **II. JURISDICTION**

3 2. Jurisdiction of this Court arises under 15. U.S.C. §
4 1692k(d) and 28 U.S.C. § 1331. Venue is based on 28 U.S.C. §
5 1391(b)(2), for the plaintiff, Larry Lee, lived in Whatcom
6 County, Washington, during the events described below.

7 **III. PARTIES**

8 3. Plaintiff, Larry Lee (Lee) is an adult. At the time
9 of the events described herein he was and remains a resident
10 of Whatcom County, Washington.

11 4. Defendants:

12 A. Mann Bracken, LLC (Mann) is a Georgia limited
13 liability company and a law firm. It is a "debt collector"
14 as defined in 15 U.S.C. § 1692a(6).

15 B. Plaintiff names unknown defendants and an unknown
16 collection agency for he believes he has claims against
17 parties other than Mann. But it will take discovery to
18 determine their identities.

19 C. Eskanos & Adler, P.C., is a California Professional
20 Corporation from Concord, California and a law firm.

21 **IV. FACTUAL ALLEGATIONS**

22 Background

23
24 5. Lee had a credit card with a financial entity with
25 the words "Capital One" in its name. Using the credit card
26 he incurred a "debt" as defined in 15 U.S.C. § 1692a(5). The
27

28 COMPLAINT - 2/9

JAMES STURDEVANT
ATTORNEY AT LAW
BELLINGHAM TOWERS #310
119 N. COMMERCIAL
BELLINGHAM, WASHINGTON 98225
(360) 671-2990
E-MAIL: sturde@openaccess.org

1
2 debt was primarily for personal, family and household
3 purposes. Because of unexpected medical expenses, he was
4 unable to continue to make timely payment on the debt.

5 COLLECTION

6 6. On information and belief, plaintiff alleges that
7 this Capital One financial entity assigned the Lee account to
8 a collection agency. He does not know the name of the
9 collection agency and thus calls it "Unknown Collection
10 Agency" (Unknown). Unknown's failure to do business in its
11 real name violates 15 U.S.C. §§ 1692e, e(10) & e(14) and
12 Wash. Rev. Code 19.16.110 & 250(15) (2009). Again on
13 information and belief, he alleges that Unknown hired the law
14 firm of Eskanos and Adler, P.C. (Eskanos) to collect the debt.
15

16 7. Attached Exhibit "A" is a letter dated May 21, 2008,
17 that he received from Eskanos. It outlines an agreement he
18 entered with it to pay the debt. According to the terms of
19 the agreement, he was to pay \$2,000.00 down and then \$350.00
20 on the 30th of each month thereafter until the debt was paid
21 in full. The letter misstated the principal and interest.
22 But he sent the \$2,000.00 payment. This misstatement
23 violates 15 U.S.C. §§ 1692e, 1692e(2), 1692f, 1692f(1) and
24 Wash. Rev. Code 19.16.250(15), (18), (19) (2009). Exhibit
25 "B" is a June 11, 2009, letter he received from Eskanos. It
26 reminded him of his \$350.00 monthly payment and without his
27

28 COMPLAINT - 3/9

1
2 assent it changed the payment date from the 30th of the month
3 to the 25th of the month. This unilateral change of the
4 payment date violates 15 U.S.C. §§ 1692e(5), 1692f, 1692f(1).
5 He made the \$350.00 payment.

6 8. On information and belief, plaintiff alleges that
7 sometime between June 11, 2008, and July 16, 2008, Mann
8 purchased Eskanos. Exhibit "C" is a true and correct copy of
9 a letter he received from Mann. It was the first time that
10 he had heard anything from Mann. The letter does not contain
11 the notice required of 15 U.S.C. § 1692g. The envelope for
12 the letter is postmarked July 17, 2008, and he received it
13 July 18, 2008.

14 9. Exhibit "D" is a true and correct copy of the
15 declaration of service. It indicates that Eskanos served
16 plaintiff on July 21, 2008, with the summons and complaint
17 (Exhibit "E"). The summons and complaint had not been filed
18 and did not have a docket number. They were also drafted on
19 the legal stationary of Eskanos. The plaintiff in the state
20 court lawsuit is named as Capital One Bank (USA), N.A. It
21 has no beneficial interest in the debt and thus no standing
22 to file the lawsuit. On information and belief, plaintiff in
23 the instant lawsuit alleges that Capital One Bank (USA) N.A.
24 "rents" its name to Unknown. It rents its name in an attempt
25 to allow Unknown to circumvent the Common Law prohibition of
26

27
28 COMPLAINT - 4/9

JAMES STURDEVANT
ATTORNEY AT LAW
BELLINGHAM TOWERS #310
119 N. COMMERCIAL
BELLINGHAM, WASHINGTON 98225
(360) 671-2990
E-MAIL: sturde@openaccess.org

1
2 assignments of choses in action. Wash. Super. Ct. Civ. R.
3 17(d) (2009) incorporates Wash. Rev. Code. Ann. § 4.08.080
4 (2009) into it. The cited statute is legislation that allows
5 the assignment of choses in actions, if and only if the
6 plaintiff proves a written assignment signed by an authorized
7 person. Such an assignment must be alleged and proved before
8 a plaintiff has standing to bring a lawsuit on the chose in
9 action.

10 10. On July 24, 2008, he called the telephone number on
11 the July 16, 2008, letter. He made his second \$350.00
12 payment. He asked Donna Smith about the July 16, 2008,
13 letter and the service of the summons and complaint. She
14 stated that they had decided to sue him, implied that suing
15 him was "normal" and that he should not worry about it. Her
16 statement violated 15 U.S.C. §§ 1692e, 1692e(10), 1692f.

17 11. After the July 24, 2008, telephone call, Lee
18 contacted an attorney. He contacted the attorney because
19 defendants were reneging on the payment agreement. He was
20 upset with their reneging.
21

22 12. After the July 24, 2008, telephone call, he talked
23 to his attorney. After he talked to his attorney he received
24 another letter from Mann dated July 31, 2008. Exhibit "F" is
25 a true and correct copy of it. Exhibit "G" is a true and
26 correct copy of the letter dated August 4, 2008, he sent to
27

28 COMPLAINT - 5/9

JAMES STURDEVANT
ATTORNEY AT LAW
BELLINGHAM TOWERS #310
119 N. COMMERCIAL
BELLINGHAM, WASHINGTON 98225
(360) 671-2990
E-MAIL: sturde@openaccess.org

1 Donna Smith at Eskanos.

2
3 13. He heard nothing further from Mann until March,
4 2009. Attached Exhibit "H" is a true and correct copy of the
5 letter he received. The letter informed him for the first
6 time that the Capital One had filed the lawsuit against him
7 on December 10, 2008. Its failure to inform him that it had
8 filed the lawsuit when it filed the lawsuit violates 15
9 U.S.C. §§ 1692e, 1692e(10), 1692f.

10 14. Enclosed with the Exhibit "H" was a Note and Motion
11 For Default Judgment. A true and correct copy of it is
12 attached Exhibit "I." Attached to the motion is an affidavit
13 by Sharonda Johnson. She is not an employee of Capital One
14 Bank N.A. (U.S.A). The numbers in her affidavit conflict
15 with the numbers in the complaint and in the motion for
16 default judgment. These inconsistent numbers violate 15
17 U.S.C. §§ 1692e, 1692e(2), 1692f, 1692f(1) and Wash. Rev.
18 Code 19.16.250(15), (18), (19) (2009).

19
20 SUMMARY

21 15. Plaintiff has suffered actual damages as a result of
22 of Defendants' illegal collection actions in his attorney's
23 fees, time spent in defending the lawsuit, costs, mileage and
24 in the form of embarrassment, relationship stress, anger,
25 anxiety, emotional distress, fear, humiliation, and
26 frustration among other negative emotions.

27
28 COMPLAINT - 6/9

JAMES STURDEVANT
ATTORNEY AT LAW
BELLINGHAM TOWERS #310
119 N. COMMERCIAL
BELLINGHAM, WASHINGTON 98225
(360) 671-2990
E-MAIL: sturde@openaccess.org

V. CAUSES OF ACTION

Fair Debt Collection Practices Act - 15 U.S.C. § 1692

16. Plaintiff realleges all preceding paragraphs of the complaint and incorporate them herein by this reference.

17. The foregoing acts and omissions of each and every Defendant constitute numerous and multiple violations of the FDCPA including, but not limited to, each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 *et seq.*

18. As a result of each and every Defendant's violation of the FDCPA, Plaintiff is therefore entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1), statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A), and reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from each and every defendant herein.

Washington State Consumer Protection Act RCW 19.86.

19. Plaintiff realleges all preceding paragraphs of the complaint and incorporates them herein by this reference.

20. Defendants violations of of the FDCPA violate Wash. Rev. Code §§ 19.16, *et seq.* (2009). Through Wash. Rev. Code § 19.16.440 (2009) the defendants' violations of the FDCPA and of Wash. Rev. Code §§ 19.16, *et seq.* also violated Wash. Rev. Code 19.86.010, 020. He is under Wash. Rev. Code §

COMPLAINT - 7/9

JAMES STURDEVANT
ATTORNEY AT LAW

BELLINGHAM TOWERS #310
119 N. COMMERCIAL
BELLINGHAM, WASHINGTON 98225
(360) 671-2990
E-MAIL: sturde@openaccess.org

1
2 19.86.090 (2009) entitled to judgment against the unknown
3 defendants who are not attorney's acting in their capacities
4 as attorneys for his actual damages, treble damages, costs
5 and attorney's fees.

6
7 **VI. PRAYER FOR RELIEF**

8 WHEREFORE, plaintiff prays this Court that judgment be
9 entered against each and every defendant as follows:

10 A. Statutory damages of \$1,000.00 pursuant to 15 U.S.C.
11 § 1692k(a)(2)(A) against each and every defendant on behalf
12 of plaintiff.

13 B. Actual damages under 15 U.S.C. § 1692k(a)(1) against
14 each and every defendant.

15 C. For an award of costs of litigation and reasonable
16 attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against
17 each and every defendant.

18 D. Under Wash. Rev. Code § 19.86.090 (2009), actual
19 damages, treble damages, costs and attorney's fees only
20 against the unknown defendants.

21 E. Under Wash. Rev. Code § 19.86.090 (2009) an
22 injunction enjoining unknown defendants from bring lawsuits
23 in Washington State without registering with the Washington
24 State Department of Licensing as a collection agency and it
25 must bring collection actions in its name and not rent the
26 name of a bank and an injunction under the FDCPA enjoining
27

28 COMPLAINT - 8/9

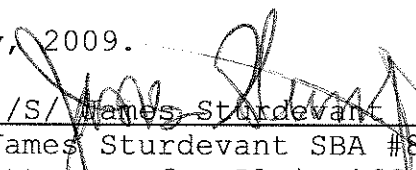
JAMES STURDEVANT
ATTORNEY AT LAW
BELLINGHAM TOWERS #310
119 N. COMMERCIAL
BELLINGHAM, WASHINGTON 98225
(360) 671-2990
E-MAIL: sturde@openaccess.org

1
2 Mann from filing a lawsuit after the defendant has noted an
3 appearance without immediately informing the defendant that
4 it has filed the lawsuit.

5 **VII. JURY DEMAND**

6 Plaintiff hereby demands that this cause be tried by a
7 jury.

8 Dated this 14th day of July, 2009.

9 
10 /s/ James Sturdevant
11 James Sturdevant SBA #8016
12 Attorney for Plaintiff
13 119 N. Commercial St. #310
14 Bellingham, WA 98225
15 1360-671-2990
16 sturde@openaccess.org